

CAUSE NO. 352 243811 10

MICHELLE STATHAM,
Plaintiff

IN THE DISTRICT COURT

v.

JUDICIAL DISTRICT

PALISADES COLLECTION, LLC,
Defendant

TARRANT COUNTY, TEXAS

FILED
TARRANT COUNTY
THUR FEB 19 AM 10:30
THOMAS A. WILDER
DISTRICT CLERK

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

A. Discovery Control Plan

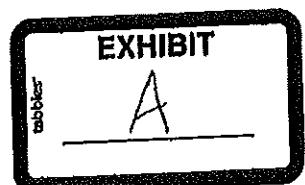
1. The plaintiff intends that discovery in this case shall be conducted under Level One as set forth in Tex. R.Civ.P. Rule 190.1 because this suit involves only monetary relief totaling \$50,000 or less, excluding court costs, prejudgment interest and attorney's fees.

B. Preliminary Statement

2. This is an action for actual and statutory damages for violations of the Fair Debt Collection Practices Act (hereafter the FDCPA), 15 U.S.C. § 1692, *et seq.*, the Texas Deceptive Trade Practices Act (hereafter the TDPA), and Common Law Invasion of Privacy by Intrusion.

C. Parties

3. Plaintiff, Michelle Statham (hereinafter "Plaintiff"), is a resident of Tarrant County, Texas.



4. Defendant, Palisades Collection, LLC (hereinafter "Defendant"), is a domestic corporation authorized to do business in this State and may be served with process by serving Palisades Collection, LLC, through its registered agent, Corporation Service Company, at 211 E. 7th Street, Austin, TX 78701.
5. Plaintiff, Michelle Statham ("Plaintiff"), is a natural person and a "consumer" as defined by the Texas Deceptive Trade Practices Act §17.45(4) and the FDCPA, 15 U.S.C § 1692a(3) .
6. Defendant, Palisades Collection LLC Defendant"), is a domestic corporation engaged in the business of collecting debts by use of the mails and telephone, and Defendant regularly attempts to collect debts alleged to be due another. Defendant is a "debt collector" attempting to collect from Plaintiff a "debt," as that term is defined by 15 U.S.C. § 1692(a)(5).

D. Venue

7. Venue of this action is proper in the county of suit because all or a substantial part of the events giving rise to the claim occurred in this County.

E. Count I- Violation of the Fair Debt Collection Practices Act

8. Plaintiff incorporates the foregoing paragraphs, ¶ 1-7, as though the same were set forth at length herein.
9. Defendant is a debt collector that has made at least one attempt to collect an alleged debt from the Plaintiff.
10. The alleged debt was incurred for personal and household purposes.
11. Over the past year, Defendant's employees and agents have engaged in a pattern of harassment in an attempt to collect the aforementioned alleged debt.

12. Defendant further violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 in one or more of the following ways:

Overshadowing

- a) Overshadowing the disclosures required by 15 USC § 1692g(a) during the thirty-day dispute period, including threatening to send adverse information to Plaintiff's credit report in the initial dispute letter with no explanation of how the threatened activities interact with Plaintiff's right to dispute the debt. The letter in question is dated February 27, 2009. The threat of adverse credit action in such letter had the potential effect of distracting Plaintiff from proper consideration and digestion of the information contained in the validation rights notice, which appeared later in the letter. (§ 1692g(b));
- b) Communicating credit information which is known or which should be known to be false, including failing to properly update Plaintiff's credit report with information pertaining to Plaintiff's dispute of the alleged debt. Plaintiff disputed the validity of the account in writing to Defendant directly, on or about 3/15/09. Thereafter, Defendant continued to report the alleged debt as unpaid to Plaintiff's credit report. Pursuant to 15 USC § 1692e(8), Defendant was required to include in subsequent credit information updates about the account information indicating that the debt is disputed. Defendant included extra information in its reports to the credit bureau in the form of a statement which reads: dispute resolved; customer disagrees. This note is misleading because Plaintiff's dispute was never satisfactorily resolved (§ 1692e(8) & § 1692e(10)).
- c) Was otherwise deceptive and failed to comply with the Fair Debt Collection Practices Act.

13. As a result of Defendant's violations as aforesaid, Plaintiff suffered a substantial disruption in daily routine thus warranting an award of emotional and/or mental anguish damages.

Credit reporting

14. Defendant's aforementioned violations of the FDCPA also constitute an invasion of Plaintiff's right to privacy, causing additional injury to Plaintiff's feelings, mental anguish and distress.
15. As a result of the above violations of the FDCPA and invasion of privacy, Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and emotional distress, and Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages, and costs and attorney's fees.

F. Count II-Violation of the Texas Deceptive Trade Practices Act

16. Plaintiff incorporates the foregoing paragraphs, ¶ 1-15, as though the same were set forth at length herein.
17. This suit is brought, in part, under the authority of Tex. Bus. & Com. Code § 17.41 *et seq.*, commonly known as the Deceptive Trade Practices and Consumer Protection Act and cited in this petition as the "DTPA".
18. Section 392.404 of the TDCPA reads in part: "A violation of this chapter is a deceptive trade practice under Subchapter E, Chapter 17, Business & Commerce Code, and is actionable under that subchapter." Therefore, the Defendant is also in violation of the DTPA.
*fw
iv*
19. Defendant was given notice in writing of the claims made in this Petition more than sixty days before this suit was filed in the manner and form required by DTPA §17.505 (a).
20. Defendant made numerous material misrepresentations in an attempt to collect the purported debt as detailed above.
FB
21. Defendant knew or should have known that its representations were false and/or acted in reckless disregard for the truth or falsity of its representations.

22. Defendant's actions were done maliciously and in willful, wanton and reckless disregard for the rights of the Plaintiff.
23. Defendant's actions as detailed above constitute a violation of the Texas Deceptive Trade Practices Act, Tex. Bus. & Com. Code § 17.41.
24. The conduct described above has been and is a producing and proximate cause of damages to Plaintiff. Plaintiff's damages include: Actual/economic damages, emotional and/or mental anguish damages, exemplary/punitive damages, and Plaintiff's attorneys' fees and costs.
25. Additionally, Plaintiff seeks an award of discretionary additional damages in an amount not to exceed three times the amount of economic damages if Defendant's conduct is found to have been committed knowingly; or an amount not to exceed three times the amount of economic and mental anguish damages if Defendant's conduct is found to have been committed intentionally.
26. Plaintiff seeks reasonable and necessary attorney's fees in this case through the time judgment is entered and for any post-trial or post-judgment appeals, to be detailed through a statement of services submitted at the appropriate time.

G. Count III - Common Law Invasion of Privacy by Intrusion

27. Plaintiff incorporates the foregoing paragraphs, ¶ 1-26, as though the same were set forth at length herein.
28. Defendant's aforementioned violations also constitute an intentional intrusion into Plaintiff's private places and into private matters of Plaintiff's life, conducted in a manner highly offensive to a reasonable person. Plaintiff had a subjective expectation of privacy

in the context of Defendant's actions that was objectively reasonable under the circumstances.

H. Jury Demand

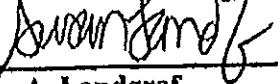
29. Plaintiff demands a jury trial, and tenders the appropriate fee with this petition.

I. Prayer

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that Defendant be cited to appear and answer herein and upon final hearing hereof, Plaintiff has judgment of and against Defendant as follows:

- (a) a declaratory judgment be entered that Defendant's conduct violated the Texas Deceptive Trade Practices Act;
- (b) an award for all actual damages, exemplary damages, emotional/mental anguish damages, all attorneys fees, costs of court, and pre-judgment and post-judgment interest at the highest lawful rates.
- (c) seeks an award of discretionary additional damages in an amount not to exceed three times the amount of economic damages if Defendant's conduct is found to have been committed knowingly; or an amount not to exceed three times the amount of economic and mental anguish damages if Defendant's conduct is found to have been committed intentionally.
- (d) such other and further relief as may be just and proper.

Respectfully Submitted,
Weisberg and Meyers, LLC

By: 

Susan A. Landgraf
Texas Bar No. 00784702
108 E 46th Street
Austin, TX 78751
Tel. 512-436-0036 ext. 116
Fax 866-317-2674
ATTORNEY FOR PLAINTIFF

LMS Packing Slip

Package ID: 1451416

Tracking Number: 441418553090
Package Recipient: Seth Berman Esq.
Recipient Company: Asta Funding
Recipient Address: 210 Sylvan Avenue Englewood Cliffs NJ 07632 USA
Phone Number: 2013089350

Package Contents:

Transmittal Number	Case Number	Title of Action
7444432	352 243811 10	Michelle Statham vs. Palisades Collection, LLC

CITATION

Cause No. 352-243811-10

MICHELLE STATHAM

VS.

PALISADES COLLECTION, LLC

ISSUED

This 22nd day of February, 2010

Thomas A. Wilder
Tarrant County District Clerk
401 W BELKNAP
FORT WORTH TX 76196-0402

By JUANITA VEGA Deputy

SUSAN A LANDGRAF
Attorney for: MICHELLE STATHAM
Phone No. (512)436-0036
ADDRESS: 108 E 46TH ST

AUSTIN, TX 78751

CIVIL LAW



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SERVICE FEES NOT COLLECTED
BY TARRANT COUNTY DISTRICT CLERK

THE STATE OF TEXAS
DISTRICT COURT, TARRANT COUNTY

COPIED

CITATION

Cause No. 352-243811-10

MICHELLE STATHAM
VS.
PALISADES COLLECTION, LLC

3/3/10

J.C.

TO: PALISADES COLLECTION LLC

A/S KEO AGENT, CORPORATION SERVICE COMPANY 211 S 7TH ST AUSTIN, TX 78701.

You said DEFENDANT are hereby commanded to appear by filing a written answer to the PLAINTIFF'S ORIGINAL PETITION at or before 10 o'clock A.M. of the Monday next after the expiration of 20 days after the date of service hereof before the 352nd District Court, 401 W BELKNAP, in and for Tarrant County, Texas, at the Courthouse in the City of Fort Worth, Tarrant County, Texas said PLAINTIFF being

MICHELLE STATHAM

Filed in said Court on February 19th, 2010 Against
PALISADES COLLECTION LLC

For suit, said suit being numbered 352-243811-10 the nature of which demand is as shown on said PLAINTIFF'S ORIGINAL PETITION a copy of which accompanies this citation.

SUSAN A LANDGRAF
Attorney for MICHELLE STATHAM. Phone No. (512)436-0036
Address 108 E 46TH ST AUSTIN, TX 78751

Thomas A. Wilder, Clerk of the District Court of Tarrant County, Texas. Given under my hand and the seal of said Court, at office in the City of Fort Worth, this the 22nd day of February, 2010.

By Susan Landgraf Deputy
JENNITA VEGA

NOTICE: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the Clerk who issued this citation by 10:00 AM on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Thomas A. Wilder, Tarrant County District Clerk, 401 W BELKNAP, FORT WORTH TX 76196-0402

OFFICER'S RETURN

Received this Citation on the _____ day of _____, _____ at _____ o'clock _____ and executed at _____ within the county of _____, State of _____ at _____ o'clock _____ on the _____ day of _____, _____ by delivering to the within named (Def.): _____ defendant(s), a true copy of this Citation together with the accompanying copy of PLAINTIFF'S ORIGINAL PETITION, having first endorsed on same the date of delivery.

Authorized Person/Constable/Sheriff: _____
County of _____ State of _____ By _____ Deputy

Fees \$ _____

State of _____ County of _____ (Must be verified if served outside the State of Texas)
Signed and sworn to by the said _____ before me this _____ day of _____
to certify which witness my hand and seal of office
(Seal)

County of _____, State of _____



CORPORATION SERVICE COMPANY

Notice of Service of Process

AL2 / ALL
Transmittal Number: 7444432
Date Processed: 03/04/2010

Primary Contact: **Seth Berman Esq.**
Asia Funding
210 Sylvan Avenue
Englewood Cliffs, NJ 07632

Entity:	Palisades Collection, L.L.C. Entity ID Number 1760981
Entity Served:	Palisades Collection LLC Assignee of A T & T
Title of Action:	Michelle Statham vs. Palisades Collection, LLC
Document(s) Type:	Citation/Petition
Nature of Action:	Other
Court:	Tarrant County District Court, Texas
Case Number:	352 243811 10
Jurisdiction Served:	Texas
Date Served on CSC:	03/03/2010
Answer or Appearance Due:	10:00 am Monday next following the expiration of 20 days after service
Originally Served On:	CSC
How Served:	Personal Service
Sender Information:	Susan A. Landgraf 512-436-0036 x116

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC
CSC is SAS70 Type II certified for its Litigation Management System.
2711 Centerville Road Wilmington, DE 19808 (800) 690-2882 | sop@cscinfo.com

CAUSE NO. 352-243811-10

MICHELLE STATHAM, § **IN THE DISTRICT COURT OF**
§
Plaintiff, §
§
v. § **TARRANT COUNTY, TEXAS**
§
PALISADES COLLECTION, LLC, §
§
Defendant. § **352nd JUDICIAL DISTRICT**

DEFENDANT PALISADES COLLECTION, LLC'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Palisades Collection, LLC ("Palisades"), Defendant in the above-styled and numbered cause, and files this Original Answer to Plaintiff's Original Petition on file herein, and for such Answer respectfully shows the Court as follows:

I.
GENERAL DENIAL

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Palisades generally denies each and every allegation contained in Plaintiff's Original Petition and demands strict proof thereof by a preponderance of the evidence.

II.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Palisades prays that Plaintiff take nothing by her claims, and for all other relief to which Palisades may be justly entitled.

Respectfully submitted,



David R. Clouston
State Bar No. 00787253
Christopher R. Richie
State Bar No. 24002839
Leslye E. Moseley
State Bar No. 24044557
Jessica A. Henson
State Bar No. 24068029

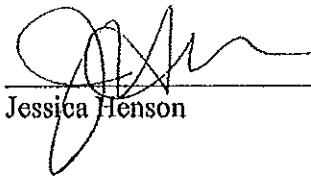
Sessions, Fishman, Nathan & Israel, LLP
900 Jackson Street
Suite 440
Dallas, Texas 75202
Telephone: 214-741-3001
Facsimile: 214-741-3055

**ATTORNEYS FOR DEFENDANT
PALISADES COLLECTION, LLC**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing has been sent to the following via U.S. Mail on this 26th day of March, 2010:

Susan A. Landgraf
Weisberg and Meyers, LLC
108 E. 46th Street
Austin, TX 78751



Jessica Henson